

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2002-122

September 4, 2002

PUBLIC UTILITIES COMMISSION  
Investigation into Potential Violations of  
State Laws and Commission Rules by  
WebNet Communications, Inc.

ORDER CONTINUING  
PROCEEDING

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

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**I. SUMMARY**

In this Order we decide the Commission should not dismiss but should continue the investigation that we initiated on March 12, 2002, of the activities of WebNet Communications that are alleged in the Prosecutorial Staff Report filed on July 1, 2002.

**II. PROCEDURAL BACKGROUND**

Following the filing of the Prosecutorial Staff Report, the Examiners ordered WebNet to file a response. WebNet responded with a motion for a lengthy extension, stating that it need substantial time in which to respond in detail to the numerous detailed allegations in the Staff report. On July 17, the Examiners issued a further procedural order denying WebNet's motion in part and stating that WebNet should not respond in detail to each allegation but should instead respond in a general manner, i.e. it should provide the Commission with any reasons why, in light of the allegations in the Prosecutorial Staff Report, the investigation should not continue.

**III. DISCUSSION**

In determining whether we should continue with this investigation, we have reviewed the Prosecutorial Staff's Report and WebNet's response. We consider the allegations in the Report to be very serious. Not only does the Report allege 144 violations, its claims about the manner in which WebNet switched some of the customers to its service suggest very serious violations of our Rules. If true, the activities of WebNet resulted in serious inconvenience to a large number of customers.

WebNet's response disputes some of the facts contained in the Report. It asserts that some of the claimed evidence does not support some of the allegations and that the evidence actually shows that it made good faith efforts to comply with proper procedures. We view WebNet's response essentially as confirmation that there are factual disputes between the parties. WebNet has made no claim that, if the Prosecutorial Staff proves the allegations in the Report, there would not be a basis for finding violations. WebNet also did not provide any legal reason why the investigation should not continue. As to one category of offense, the claim that it used an improper

format for third-party verification of a customer changes in carriers, WebNet argues that the Prosecutorial Staff is attempting, after the fact, to impose a particular format standard and that doing so would violate its First Amendment rights. We cannot decide at this time whether WebNet's constitutional argument (in the nature of a defense) has merit. The claim is one that needs further factual development and legal argument.

WebNet's response also contained a "settlement offer." We believe that any settlement discussions should take place, at least initially, with the Prosecutorial Staff.

Accordingly, we

## ORDER

1. That this investigation shall move forward without delay;
2. That the Hearing Examiner shall establish a schedule for discovery and hearings.

Dated at Augusta, Maine, this 4<sup>th</sup> day of September, 2002.

BY ORDER OF THE COMMISSION

Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR: Welch  
Nugent  
Diamond